GOVERNMENT OF MYSORE.

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR).

Labour Disputes.—Industrial Dispute between the Workmen and the Management of Trimbak Rao Ghantoji, Commission Agent, Gulbarga.

Award of the Labour Court, Hubli—Published.

Read the following papers:—

(1) Letter No. 1286/67-68, dated 31st August 1967, from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI.

Date : 31st August 1967.

Reference (ID) (LCH) No. 75 of 1966.

Present :

Sri Syed Azizuddin Ahmed, M.A., B.L. *Presiding Officer.*

Between :

The Workmen of Trimbak Rao Ghantoji, Commission Agent, Gulbarga represented by the Secretary, Gumasta Sangh, Gulbarga. ... *I Party.*

and

The Management Trimbak Rao Ghantoji, Commission Agent, Gulbarga. ... ... *II Party.*

This is a reference U/s 10 (1) (c) of the Industrial Disputes Act, 1947 made by the Government of Mysore, in their Order No. 512 LLD 66, dated 29th November 1966. The points of dispute referred for adjudication are as under :

1. Whether Sri Bhimanappa *alias* Arjungi an ex-employee of Sri Trimbak Rao, Ghantoji, Merchants and Commission Agents, Gulbarga is entitled for reinstatement with back wages and continuity of service or service gratuity, notice pay, leave salary and overtime allowance from the said management ?
2. If not, for what other benefits he is entitled to ?

2. The cause of the aggrieved workman has been sponsored and espoused by The Gumasta Sangh, Gulbarga, represented by its Secretary. Sri Sidramappa, Secretary appeared for the I Party while Sri Trimbak Rao Ghantoji, Proprietor himself appeared for the II Party. In response to the notices issued by the Court,

the parties have filed their claim statement and counter statement dated 21st December 1966 and 7th January 1967 respectively.

8. The sum and substance of the claim statement is that Sri Bhimanappa *alias* Arjungi, the aggrieved workman was working with the II Party for over a period of two years on a salary of Rs. 170 p.m. He maintained spotless record of service. The II Party removed him from service from Deepavali, 1965-66 for no fault. He is, therefore, entitled for reinstatement in service with full backwages and other monetary reliefs to which he is legally entitled. A sum of Rs. 120 is claimed in respect of gratuity and alike sum in lieu of one month's notice pay, Rs. 720 towards over-time and leave wages for 86 days at Rs. 144.

4. The stand of the II Party is that the aggrieved workman left the job of his own accord. He has not done any over-time work. He is not entitled to any of the monetary benefits detailed in the claim statement. In addition to the points of dispute, specified in the order of reference, the following additional issue was raised.

Whether the II Party proves that the workman Sri Bhimanappa left the job of his own will?

The parties examined two witnesses each and closed their cases.

FINDINGS

5. The most important point that arises for determination in this reference is whether the aggrieved workman was removed from service by the II Party or did he leave the service of the II Party of his own accord. Sri Gurushantappa M. W. 1 deposed that he used to visit the shop of the II Party in connection with business transactions. Sri Bhimanappa had left the service of the II Party of his own accord. The II Party had told him that the aggrieved workman is leaving the job and they later also said that he is leaving the job because the II Party was not raising his salary. This took place about one eight months back. Sri Siddaram, M. W. 2 deposed that the aggrieved workman had left the service of the II Party of his own accord. At that time, the proprietor had sent for him. The aggrieved workman had told him that he would give up the job. The proprietor also had told him that the workman was giving up the job. Bheemappa W.W.1 is none other than the aggrieved workman. He deposed that he used to go to

the shop of the II Party at 10 a.m. and work till 12-00 mid-night. He asked the proprietor to increase the pay, whereupon, he replied that his services were no longer required. He admits that M.W.1 and M.W.2 used to visit the shop of the II Party now and than but they were not present at the time when he asked for increase in his pay. He admits that he is now working temporarily with Kanappa Margol. Channappa, W.W.2 deposed that himself and Bheemappa worked with the II Party. Himself was an accountant. Bheemappa asked Trimbak Rao, the proprietor to increase his salary, whereupon, he replied that he would not increase his salary and that he may give up his job.

6. The point is, which of the two versions is to be believed. I have, before me, the statement of the aggrieved workman that he used to work in the shop of the proprietor from 10-00 a.m. till 12-00 mid-night. He had asked for increase in his pay and the proprietor had denied him the increase. Naturally, he was disgusted with the job and decided to give it up and accordingly, gave it up. Later on, he appears to have changed his mind under some extraneous influence and wants to make up a case that the proprietor had removed him from service for no reason and that he is entitled for reinstatement and for monetary benefits. There is nothing on record to suggest that there was any gratuity scheme in the II Party management. There is nothing to show that the proprietor had asked him to work over-time and he had done it accordingly. There is nothing on record to show that he is entitled for leave salary. Besides, leave salary is a benefit to be enjoyed and not to be encashed. The additional issue is decided in favour of the II Party. An natural corollary to my finding on the additional issue, the points of dispute specified in the order of reference stand decided against the workman.

AWARD

Sri Bhimanappa *alias* Arjungi is not entitled for reinstatement with back wages and continuity of service, or service gratuity, notice pay, leave salary and over-time allowance from the II Party, the Management of Trimbak Rao Ghantoji, Commission Agent, Gulbarga. He is not entitled to any other benefits. The parties shall bear their own costs.

SYED AZIZUDDIN AHMED
Presiding Officer,
Labour Court, Hubli

Place : Hubli.
Date : 31—8—1967.

ANNEXURE

Reference (ID) (LCH) No. 75/1966.

Witnesses examined for I Party.

W.W. 1 Bheemappa S/o Chandappa
W.W. 2 Channappa S/o Basappa

Witnesses examined for II Party.

M.W. 1 Gurushantappa S/o Chaanabasappa
M.W. 2 Siddaram S/o Bakkappa

Documents marked for I Party.

Nil

Documents for marked II Party.

Nil

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

Place: Hubli
Date: 31-8-1967.

ORDER

Bangalore, dated 5th September 1967.

S. O. 1782.—WHEREAS by State Government Order No. LMA 512 LLD 66, dated 29th November 1966, the Industrial Dispute between the workmen and the Management of Trimbak Rao Ghantoji, Commission Agent, Gulbarga was referred to the Labour Court, Hubli for adjudication;

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore, are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 512 LLD 66]

By Order and in the name of the Governor of Mysore,

1048 G. G. PUROHIT, *Under Secy.*